

AO 91 (Rev. 12/93) Criminal Complaint

United States District Court

DISTRICT OF DELAWARE

UNITED STATES OF AMERICA

v.

NELSON LORA-PENA

REDACTED

Criminal Complaint

CASE NUMBER: 05- 72 M

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

On or about April 9, 2005 in New Castle county, in the _____ District of Delaware

defendant(s) did, (Track Statutory Language of Offense)

forcibly assault Deputy United States Marshal Jack Leo while he was engaged in the performance of official duties,

in violation of Title 18 United States Code, Section(s) 111(b)I further state that I am a(n) Deputy United States Marshal William David and that this complaint is based

Official Title

on the following facts:

See attached Affidavit

Continued on the attached sheet and made a part hereof: Yes



Signature of Complainant

William David

Deputy United States Marshal

United States Marshal's Service

Sworn to before me and subscribed in my presence,

April 11, 2005 at _____
DateWilmington, DE
City and StateHonorable Mary Pat Thyng
United States Magistrate Judge
Name & Title of Judicial Officer
Signature of Judicial Officer

Affidavit

I, William David, being duly sworn, state as follows:

1. I am a Deputy United States Marshal with the United States Marshals Service ("USMS"), and have been so employed for approximately ten years. I am currently assigned to the USMS Fugitive Task Force, and have been so assigned for approximately eight years. The Fugitive Task Force assists in the apprehension of federal, state and local fugitives from justice.
2. This Affidavit is in support of a criminal complaint against and arrest warrant for Nelson Lora-Peña ("LORA-PENÑA"), d/o/b [REDACTED]. I am the case agent responsible for the investigation in aid of which this application is being made. This Affidavit is based on my personal knowledge and observations as well as information provided to me by other law enforcement officers. Because this Affidavit is solely for the purpose of establishing probable cause, not all facts of the investigation are included herein.
3. On April 9, 2005, members of the USMS Fugitive Task Force served an arrest warrant on LORA-PENÑA at his residence at [REDACTED]. LORA-PENÑA was wanted by the USMS on arrest warrants issued by the United States District Court for the District of Rhode Island (violation of federal supervised release); the State of Rhode Island (distribution of heroin); and the Bureau of Immigration and Customs Enforcement (deportation). As of April 9, 2005, LORA-PENÑA had been a fugitive from justice for approximately nine years.
4. Upon approaching the front door and observing LORA-PENÑA inside of the residence, Deputy United States Marshals identified themselves as "police" and ordered LORA-PENÑA to come to the door and show his hands. LORA-PENÑA refused to comply. Instead, he pushed open the front door in an attempt to release two pit bull terriers on the Deputies. LORA-PENÑA then fled toward the rear of the residence and attempted to leave through the rear door. When LORA-PENÑA encountered additional USMS personnel at the rear door, he fled back into the residence.
5. Members of the USMS Fugitive Task Force pursued LORA-PENÑA into the residence. Upon doing so, Deputies were attacked by LORA-PENÑA's pit bull terriers. LORA-PENÑA refused to comply with repeated commands to desist, and instead continued to flee law enforcement throughout various areas of the residence. When members of the USMS Fugitive Task Force attempted to physically take LORA-PENÑA into custody, he forcibly resisted, by, among other things, grabbing Deputies, including Deputy United States Marshal (DUSM) Jack Leo, in an apparent attempt to obtain their weapons. While resisting arrest, LORA-PENÑA grabbed DUSM Leo's hand and attempted to

obtain his firearm, which was drawn. In doing so, LORA-PENˆA inflicted lacerations to DUSM Leo's hand.

7. Based on the foregoing facts, Affiant submits that there is probable cause to believe that Nelson Lora-Peˆa has committed a violation of Title 18, United States Code, Section 111(b), and therefore respectfully requests that the Court issue a criminal complaint and arrest warrant for LORA-PENˆA.


WILLIAM DAVID
Deputy United States Marshal
United States Marshals Service

Dated: April 11, 2005